IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 30TH NOVEMBER 2007 / 9TH AGRAHAYANA 1929

WP(C).No. 35483 of 2007(Y)

AGAINST THE ORDER IN EP. 387 /2004 IN OS.480/1992 of SUB COURT,ERNAKULAM

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PETITIONER:

C.J.VARGHESE, AGED 47 YEARS,
S/O.JOSEPH, RESIDING AT CHAKKIATH HOUSE,
CHERANELLOOR.

BY ADV. SRI.BIJU M.JOHN

RESPONDENT:

M/S.ERNAKULAM FINANCIERS AND KURIES (P)
LTD., T.D.ROAD, ERNAKULAM, KOCHI - 682 035,
REPRESENTED BY ITS MANAGING DIRECTOR MATHEW KURIEN
RESIDING AT KIZHAKKUDEN HOUSE, CHANDRATHIL ROAD,
EDAPPALLY, KOCHI - 682 024. PADIVATTOM KARA,
EDAPPALLY SOUTH VILLAGE, KANAYANNUR TALUK.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.Krishnan, J.

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W.P(C).No.35483 of 2007

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Dated this the 30th day of November, 2007.

JUDGMENT

This Writ Petition is filed whereby a direction is sought to stay further proceedings in E.P.No.387 of 2004 in O.S.No.480 of 1992 of the Sub Court-I, Ernakulam. Learned counsel for the writ petitioner submits that an arrest warrant has been issued against the writ petitioner and he may be given a breathing time to pay the amount in instalments. It is also fairly conceded by him that he is not raising the plea of no means. In order to give instalment facilities after the decree power is only under Order 20 Rule 11(2) of C.P.C. and such power can be exercised only with the consent of the decree holder.

2. Therefore, I permit the writ petitioner to move an application before the Executing Court praying for instalment facilities and the court after giving notice to the decree holder consider the matter and dispose it of in accordance with law and till such time, the order of arrest shall be deferred.

Writ Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

ess 30/11